

Agenda Item Form

Agenda Date: 3/30/04

Districts Affected: #8

Dept. Head/Contact Information: CITY CLERK DEPARTMENT
R. William Torgerson, (915) 541-4331

2004 MAR 25 PM 12 59

Type of Agenda Item:

- | | | |
|-----------------------------------------------------------|---------------------------------------------------|----------------------------------------------------|
| <input checked="" type="checkbox"/> Resolution | <input type="checkbox"/> Staffing Table Changes | <input type="checkbox"/> Board Appointments |
| <input type="checkbox"/> Tax Installment Agreements | <input type="checkbox"/> Tax Refunds | <input type="checkbox"/> Donations |
| <input type="checkbox"/> RFP/ BID/ Best Value Procurement | <input type="checkbox"/> Budget Transfer | <input type="checkbox"/> Item Placed by Citizen |
| <input type="checkbox"/> Application for Facility Use | <input type="checkbox"/> Bldg. Permits/Inspection | <input type="checkbox"/> Introduction of Ordinance |
| <input type="checkbox"/> Interlocal Agreements | <input type="checkbox"/> Contract/Lease Agreement | <input type="checkbox"/> Grant Application |
| <input type="checkbox"/> Other _____ | | |

Funding Source:

- ☐ General Fund
☐ Grant (duration of funds: _____ Months)
☐ Other Source: N/A

Legal:

- ☒ Legal Review Required Attorney Assigned (please scroll down): John Nance ☒ Approved ☐ Denied

Timeline Priority: ☒ High ☐ Medium ☐ Low # of days: _____

Why is this item necessary:

To approve Co-sponsorship Agreement between the City of El Paso Parks & Recreation Department and Parents Association for Recreation for Kids Inc to hold a fundraising event at White Spur Park. No user fee shall apply to this co-sponsorship.

Explain Costs, including ongoing maintenance and operating expenditures, or Cost Savings:

Cost savings: Funds raised by association will help provide for new playground equipment at White Spur Park at no cost to the City.

Statutory or Citizen Concerns:

None

Departmental Concerns:

None

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign, on behalf of the Parks and Recreation Department, an Agreement with the Parents Association for Recreation for Kids, Inc., providing co-sponsorship by the Parks and Recreation Department for the fundraising event, to be held on Sunday, April 25, 2004, for the purpose of raising funds to cover costs associated with the design and purchase of playground equipment to be installed at White Spur Park. No user fee shall apply to this co-sponsored event.

ADOPTED this 30th day of March, 2004.

CITY OF EL PASO

Joe Wardy
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT:

R. William Torgerson, DVM
Acting Director
Parks & Recreation Department

STATE OF TEXAS)
)
COUNTY OF EL PASO)

AGREEMENT

This Agreement is entered into by and between The City of El Paso, a municipal corporation organized and existing under the laws of the State of Texas, hereinafter referred to as the "City," and the Parents Association for Recreation for Kids, Inc., hereinafter referred to as "Contractor."

WITNESSETH

WHEREAS, Contractor is a sponsor of a fundraising event to be held on Sunday, April 25, 2004, hereinafter referred to as the "Event";

WHEREAS, Contractor has executed a Parks Use Agreement with the City to hold the Event at White Spur Park, located at 4800 Love Road; and

WHEREAS, Contractor desires to have the City support the Event by co-sponsoring the use of White Spur Park for the Event; and

WHEREAS, pursuant to Section 13.24.200, Paragraph A.1, of the El Paso Municipal Code, there is no user fee associated with the use of a City Park for activities sponsored by the City's Parks and Recreation Department; and

WHEREAS, the City Council finds that the promotion and conducting of the Event will be for the purpose of raising funds to cover costs associated with the design and purchase of playground equipment to be installed at White Spur Park for use by the public and, as such, constitutes an important public purpose of benefit to the City and citizens of El Paso for which the City is willing to co-sponsor the Event;

NOW, THEREFORE, in consideration of the promises and mutual agreements hereinafter set forth, the parties hereto do mutually agree as follows:

1. **DURATION AND SCOPE.** Contractor agrees to conduct its Event on April 25, 2004, in accordance with the Parks Use Agreement between Contractor and the City.
2. **CONSIDERATION.** The City shall co-sponsor the Event to permit use of White Spur Park by Contractor and other participants in the Event without user fees.
3. **LEGAL RELATIONSHIP.** The City of El Paso may be considered a co-sponsor of the Event only to the extent of affording Contractor and participants use of the White Spur Park without user fees. Otherwise, nothing in this Agreement shall be construed as creating a legal relationship of co-sponsorship or responsibility for the promotion, conducting, or operation of the Event on the part of the City. Contractor is an independent contractor, and nothing herein shall be construed as creating the relationship of employer and employee or principal and agent between the parties.

4. **RELEASE AND INDEMNIFICATION.** CONTRACTOR HEREBY RELEASES AND FOREVER DISCHARGES THE CITY FROM ALL CLAIMS, DEMANDS, DAMAGES, ACTIONS OR CAUSES OF ACTION, WHETHER ON ACCOUNT OF PERSONAL INJURY, DEATH OR DAMAGE TO PROPERTY, RESULTING OR TO RESULT FROM THE CONDUCTING OF THE EVENT. CONTRACTOR FURTHER AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY FROM ANY SUCH CLAIMS, CAUSES OF ACTION OR DEMANDS, INCLUDING SUBROGATION, NOW OR IN THE FUTURE DUE TO THE CONDUCTING OF OR PARTICIPATION BY PERSONS IN THE EVENT, INCLUDING, BUT NOT LIMITED TO, CLAIMS, DEMANDS, DAMAGES, ACTIONS OR CAUSES OF ACTION FROM OR BY ANY PARTICIPANT, SPECTATOR, SPONSOR, VOLUNTEER OR PAID WORKER OR PASSERBY.

5. **EQUIPMENT.** All equipment used by Contractor shall be maintained in satisfactory working condition. Equipment used shall not be used in any manner that may cause injury to any persons or to the property of the City or third parties. In particular, Contractor agrees that it shall not provide a "jumping balloon" as an attraction or activity during the Event.

6. **SAFETY.** Contractor shall comply with all applicable laws, ordinances and regulations and shall encourage its participants in the Event to comply with all applicable laws, ordinances and regulations. Contractor shall exercise every precaution for the safety of public and private property and persons.

7. **DISCRIMINATION.** Contractor, its officers, agents, servants, employees, volunteers and third parties will not discriminate on account of race, color, religion, sex or national origin, nor will it permit or allow any discrimination in the work done pursuant to this Agreement.

8. **NON-RELIGIOUS ACTIVITIES.** Contractor will conduct its Event, insofar as it may involve the City of El Paso, in a manner that is exclusively non-religious in nature and scope; there will be no religious services, proselytizing, instruction, or any other religious influences in connection with the Event insofar as it may involve the City of El Paso. There will be no religious discrimination in terms of employment or benefits provided in the conducting of the Event insofar as it may involve the City of El Paso. Contractor shall not represent that the City of El Paso is in support of or in favor of any religious services, proselytizing, instruction, or any other religious influences in connection with the Event.

9. **HANDICAPPED ACCESSIBILITY STANDARDS.** Contractor agrees, that in the performance of this Agreement, that it will comply with the Americans with Disabilities Act ("ADA"), as may be required by law. Contractor, if required, must file the Assurance required under City Ordinance 9779, prohibiting discrimination against disabled persons.

10. **COMPLIANCE WITH LAWS.** Contractor shall comply with all applicable federal, state and local laws and regulations; all City ordinances and all codes and regulations. Failure to do so in any manner, which materially impairs the quality of performance hereunder or affects the administration of the funds provided hereunder, shall constitute a material breach of this Agreement.

11. **TERMINATION.** Either party may terminate this Agreement by sending written notice to the other if the other is in default in a matter of serious importance to the aggrieved party. Termination shall be without prejudice to any obligation by one party to the other which shall have accrued and be owing prior thereto.

12. **SEVERABILITY.** Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

13. **NOTICES.** All notices and communications under this Agreement shall be either hand-delivered or mailed, postage prepaid in the United States Postal Services, to the respective parties at the respective addresses shown below, unless and until either party is otherwise notified in writing:

CITY: Mayor
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901-1196

CONTRACTOR: Parents Association for Recreation for Kids, Inc.
c/o Caroline North
330 Lombardy Avenue
El Paso, Texas 79922

14. **ENTIRE AGREEMENT.** This Agreement constitutes and expresses the entire agreement of the parties hereto in reference to any of the matters herein provided for or herein discussed or mentioned in reference to the providing of such services, all promises, representatives, and understandings relative hereto being herein merged.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 30th day of March, 2004.

THE CITY OF EL PASO

ATTEST:

Joe Wardy, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

John F. Nance
Assistant City Attorney

APPROVED AS TO CONTENT:

R. William Torgerson, DVM, Acting Director
Parks & Recreation Department

(Signatures continue on the following page.)

CONTRACTOR:

PARENTS ASSOCIATION FOR RECREATION
FOR KIDS, INC.

By: _____

Name (printed) _____

Title _____